IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 10018 of 2004

Between:

1. R.Devidas Rao S/o Hanumantha Rao
   Sadasivapet All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District
2. Md. Muneeruddin S/o Naseeruddin
   Siddipet All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
3. R.Ramakrishna Reddy S/o Narayana Reddy
   Dubbaka All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
4. M.Shiva Kumar S/o Kalyanayya
   Sangareddy All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
5. Ch.Pramod S/o Laxmaiah
   Mulugu All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
6. K.Suryanarayana S/o Narsimha Swamy
   Medak All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
7. B.Venkat Ramulu S/o Durgaiah
   Tekmal All are Working is work inspector in the Medak Dist.
   Schedule Castes services co-Operative society Ltd., Medak
District,
8. B.Nagaraju S/o Laxmaiah

All are Working is work inspector in the Medak Dist.
Schedule Castes services co-Operative society Ltd., Medak District,

9. K.Gyanender Saw S/o Durga Saw
Jarasingam All are Working is work inspector in the Medak Dist.
Schedule Castes services co-Operative society Ltd., Medak District,

10. V.Jayaraj S/o Joseph
Narayankhed All are Working is work inspector in the Medak Dist.
Schedule Castes services co-Operative society Ltd., Medak District,

11. Md.Ansari Ali S/o Modh. ALi
Chengunta All are Working is work inspector in the Medak Dist.
Schedule Castes services co-Operative society Ltd., Medak District, **..... PETITIONER(S)**

AND

1 State of AP. rep. by its Secretary, social Welfare Department, secretariat, Hyd

2 AP.Scheduled Castes Co-Operative Finance corporation Ltd., rep. by its Managing Director, Shankshema Bhavan
Masabatank, Hyd

3 The District Collector, Medak District, At Sangareddy

4 District Scheduled Castes Servives Co-Operative Society Ltd rep.by its Executive Director, Medak at Sanagareddy

5 District Scheduled Castes services coperative Society Ltd., rep. by its Executive Engineer(SW) Social
Welfare Medak at Sangareddy

6 AP. State Scheduled Caste Coop. Finance Corporation ltd., rep. by its Chief Engineer (TW) ,Tribal Welfare
Sankshema Bhavan, Masabtank, Hyd .. **RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, or order one in the nature of Certiorari: a)Calling for the records pertaining to proceedings dt. 14/06/2004 bearing No.A/4626/Estt/87 and consequential proceedings dt. 14/06/2004 bearing No. A/4626/Estt/87 by which the petitioner are repatriated from the control of the Respondent No.4 to the office of the Respondent No. 5 on the directions of the Respondent No.2 through proceedings dt. 30/04/2004 bearing No.LCI/1843/APSC/2003 is without jurisdiction, arbitrary, illegal, and the same may be quashed; b)granting all consequential benefits including costs.

For the Petitioners : MR.M.RAMA RAO, Advocate

For the Respondents: GP FOR SOCIAL WELFARE

The Court at the stage of admission made the Following :

HONOURABLE SRI JUSTICE K.C.BHANU

W.P.No.10018 of 2004

O R D E R:

This writ petition is filed questioning the proceedings No.A/4626/Estt./87, dated 14.6.2004 of the Collector/Chairman, Medak District Scheduled Castes Service Cooperative Society Limited, Sangareddy, (for short "DSCSCS"), whereunder, the writ petitioners who are working under the control of the Executive Director, DSCSCS Limited are repatriated to the Office of the Executive Engineer (SW) DSCSCS Limited, Medak at Sangareddy with immediate effect.

The case of the petitioners is that their names have been sponsored by the employment exchange for appointment to the posts of Work Inspectors in the office of the 4th respondent-Executive Director, DSCSCS Limited, Medak at Sangareddy and as such they are working under the control of the 4th respondent. At no point of time, they were deputed to work in any other wing or any office. The 4th respondent regularized the services of the writ petitioners as Work Inspectors vide proceedings, dated 7.7.2000, but the same proceedings were cancelled by the 4th respondent on 4.12.2000 on the ground that the said proceedings have been issued without verifying the competence. Questioning the same, the petitioners filed W.P.No.3602 of 2001 and the same was allowed on the ground that the order of cancellation of regularization of the petitioners' services

was passed without there being any notice to the writ petitioners. After giving notice to the petitioners, again the regularization orders have been cancelled by the 4th respondent vide proceedings dated 20.2.2003. The proceedings dated 20.2.2003 were also challenged by the petitioners in W.P. No.8266 of 2003. The 2nd respondent, without any jurisdictional authority, ordered the 4th respondent to repatriate the petitioners to work in the office of the 5th respondent-Executive Engineer (SW), DSCSCS Limited, Medak. R4, without application of mind issued the impugned proceedings. As per rules, the petitioners cannot be sent on deputation to any other organizations. Hence, the writ petition.

The 4th respondent filed counter affidavit contending that the petitioners were engaged as Work Inspectors in the office of the Executive Engineer, Engineering Wing of Medak Society during September, 1987. As the execution of CI wells was taken up under RLEGP Program, which is under the control of Executive Director, the Exeuctive Director of Medak District Society paid salaries to the petitioners. Thereafter the execution of CI wells was transferred to Panchayat Raj Department. Then, the petitioners made a representation to the Executive Director seeking transfer to Panchayat Raj Department. The then District Collector also recommended the case of the petitioners for absorption of their services. The 2nd respondent-corporation has over all administration and supervisory control over District Societies and the proceedings of the 3rd respondent-District Collector, Medak District at Sangareddy are strictly in accordance with law. R3, being the member of R2 is aware of the financial position of the District Societies. It is further stated that there are no posts of Work Inspectors in the District Society and therefore, the petitioners cannot continue in the District Society. The Engineering Wing is situated in the office of the Executive Director and no prejudice would be caused to the petitioners if they worked under the Executive Engineer. Hence, the 4th respondent prays to dismiss the writ petition.

Heard both the counsel and perused the material available on record.

By the impugned proceedings, dated 14.6.2004, the 3rd respondent-Collector ordered repatriation of the writ petitioners who are working under the control of Executive Director to the office of the Executive Engineer (SW) DSCSCS Limited, Medak. Questioning the same this writ petition is filed.

The first contention put forth by the learned counsel for the petitioners is that the 2nd respondent has no authority to direct the Collector to transfer an employee from the Society but, as seen from the allegations in the counter affidavit, it is clearly stated that the 2nd respondent has over all administrative and supervisory control over the District Societies as well as on the Engineering Branch. No rule or bye-laws of the Society have been filed by the petitioners to show that the 2nd respondent has no administrative and supervisory control over the District Societies. Therefore, in the absence of any rule or regulation, it cannot be said that the 2nd respondent has no administrative or supervisory control over the District Societies.

The second point raised by the learned counsel for the writ petitioners is that the respondents have not filed any document to show that the petitioners were deputed to work under the control of the Executive Director, DSCSCS Limited, Medak District, Sangareddy and for the last 17 years the petitioners have been working under the control of the Executive Director and the deputation orders cannot be extended for more than 5 years. Therefore, the petitioners are not working under deputation and that is the reason why the services of the writ petitioners were regularized by the Executive Director, DSCSCS Limited, Medak District, Sangareddy.

It is for the writ petitioners to establish that in what capacity they are working with the Executive Director DSCSCS Limited, Medak. They failed to produce any document to that effect. Simply because, the services of the writ petitioners were regularized by the Executive Director, DSCSCS Limited, Medak at Sangareddy it does not mean,

they are employees of the Executive Director. Further more, the said issue is pending litigation in W.P.No.8266 of 2003 before this Court.

The third ground on which the learned counsel for the petitioners raised his contention is that if the petitioners are working on deputation under the control of the Executive Director, it is the Executive Engineer who has to recall the writ petitioners but not the Collector. The Collector is the Chairman of Medak District Scheduled Castes Service Cooperative Society Limited, Sangareddy. Therefore, he has got administrative control over the employees working thereunder. No provision or bye-laws of the Society have been brought to the notice of this Court to the effect that the Collector has authority to issue any orders effecting transfers of the employees of the Society. As seen from the orders of the appointment, some of the writ petitioners were called for interview for the posts of Work Inspectors in the Engineering Division of Medak District Cooperative Society, Sangareddy. Their names were sponsored by the employment exchange, Medak. The appointment orders were given by the Executive Engineer (SW) D.S.C.S.C.S. Limited, Medak at Sangareddy. Therefore, from the appointment orders, it is clear that the petitioners were appointed by the Executive Engineer of D.S.C.S.C.S. Limited, Mekad at Sangareddy.

It is specifically stated in the counter affidavit that there are no posts of Work Inspectors existing as per the bye-laws. Therefore, the 2nd respondent requested the Collector to repatriate the petitioners to engineering wing where they were originally recruited. It is also the case of the respondents that these petitioners were engaged as Work Inspectors for the purpose of execution of CI wells which is under the control of Executive Director of the District Societies. Even though the program of CI wells was not continued with the District Society, the District Society continued to pay salaries to the petitioners. As the petitioners are the employees of the engineering wing and they are drawing salaries from the District Societies, the 2nd

respondent addressed a letter to the Collector to repatriate the petitioners to the engineering wing.

Simply because the petitioners have been working under the control of the Executive Director for 17 years, it does not mean that they are the employees working under the control of the Executive Director, DSCSCS Limited, Medak at Sangareddy. The petitioners must show that they were recruited by the Executive Director and further, at any rate, their lien in the original post under the control of the Executive Director has been cancelled and they are absorbed in the office of the Executive Director as Work Inspectors, but the petitioners have not shown that they have been absorbed in the office of the Executive Director as Work Inspectors.

In that view of the matter, the impugned proceedings do not suffer from any legal infirmities so as to call for interference by this Court. The Collector, being the Chairman of the District Societies, can repatriate the employees to the parent department. Therefore, there are absolutely no grounds to interfere with the impugned proceedings, dated 14.6.2004. Moreover, I do not find any merit in this writ petition.

For the foregoing reasons, the writ petition is dismissed at the stage of admission. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAR

/TRUE COPY/

SECTION OFFICER

7th July, 2004

bcj

To

1. The Secretary, State of A.P., Social Welfare Department,

Secretariat, Hyderabad.

2. The Managing Director, A.P. Scheduled Castes Cooperative

Finance Corporation Limited, Shankshema Bhavan, Masabtank,

Hyderabad

3. The District Collector, Medak Dist., at Sangareddy

4. The Executive Director, District Scheduled Castes Services

Cooperative Society Ltd., Medak at Sangareddy

5. The Executive Engineer (SW), District Scheduled Castes Services

Cooperative Society Ltd., Social Welfare, Medak at Sangareddy

6. The Chief Engineer (TW), A.P. State Scheduled Castes

Cooperative Finance Corporation Ltd., Tribal Welfare, Sankshema Bhavan, Masabtank, Hyderabad.

7. Two C.Cs to the Government Pleader for Social Welfare, High

Court Buildings, Hyderabad (OUT)

8. Two C.D. copies.